

Department of Community Planning and Economic Development – Planning Division**Variance Request
BZZ-2017****Date:** November 4, 2004**Applicant:** Michael Salyards**Address of Property:** 721 40th Street West**Contact Person and Phone:** Michael Salyards, (612) 964-8515**Planning Staff and Phone:** Tanya Holmgren, (612) 673-5887**Date Application Deemed Complete:** October 5, 2004**End of 60 Day Decision Period:** December 4, 2004**End of 120 Day Decision Period:** February 2, 2005**Ward:** 10 **Neighborhood Organization:** East Harriet Farmstead Neighborhood Association**Existing Zoning:** R1A, Single-family Residential District**Proposed Use:** A rear addition to an existing single-family dwelling.

Proposed Variance: A variance to reduce the required front yard setback along Aldrich Avenue South from the setback established by the adjacent residential structure from 28 ft. to 14 ft. to allow for the construction of a two-story addition to the rear of an existing single-family dwelling, a variance to reduce the required front yard setback along Aldrich Avenue South from the setback established by the adjacent residential structure from 28 ft. to 20 ft. to allow for a hot tub, a variance to reduce the required interior yard setback from 5 ft. to 1 ft. to allow for a hot tub, a variance to increase the maximum height of a fence in the front yard from 3 ft. to 6 ft. to allow for the construction of a solid fence, and a variance to increase the maximum height of a fence from 4 ft. to 6 ft. in the interior side yard where the adjacent house is closer than 5 ft. to the property line.

Zoning code section authorizing the requested variance: 525.520 (1)

Background: The subject property is approximately 40 ft. by 89 ft. (3,560 sq. ft.) and consists of an existing single-family dwelling and a gravel parking pad. The property is located at the corner of Aldrich Avenue South and 40th Street West and fronts 40th Street West. However, the adjacent property to the south fronts Aldrich Avenue South, making the subject site a reverse corner lot. The applicant is requesting a variance to reduce the established front yard setback along Aldrich Avenue South from 28 ft. to 14 ft. to allow for the construction of a two-story addition to the rear of an existing dwelling. The proposed rear addition is 14 ft. 14 ft. and consists of a family room and second story

bedroom. The proposed addition will be replacing an existing 14 ft. by 8 ft. rear enclosed porch and will maintain the same setback to the west property line as the existing porch.

The applicant is also requesting a variance to increase the maximum height of a fence in the front yard from 3 ft. to 6 ft. As previously stated, the subject site is a reverse corner lot and is required to maintain two front yard setbacks. The applicant has constructed a 6 ft. wood privacy fence enclosing a hot tub to the rear of the existing dwelling. Due to the front yard requirement along Aldrich Avenue South, a variance is required to locate the hot tub in its current location and to construct a solid fence that is greater than 3 ft. in height. In addition, a variance is required to reduce the side yard setback from 5 ft. to 1 ft. to allow for the hot tub in its existing location and to construct a fence that is 6 ft. tall when the adjacent dwelling is less than 5 ft. from the property line.

Findings Required by the Minneapolis Zoning Code:

- 1. The property cannot be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

Front yard setback: The applicant is seeking a variance to reduce the required front yard setback along Aldrich Avenue South from 28 ft. to 14 ft. to allow for the construction of a two-story addition to the rear of an existing single-family dwelling and from 28 ft. to 20 ft. to locate a hot tub in the required front yard. The front yard setbacks imposed on the single-family dwelling provides only 7 ft. of the property as buildable. The entire existing dwelling is within the front setback. Strict adherence to the regulations would not allow for the proposed addition to the existing single-family dwelling or the hot tub in the required front yard.

Side yard setback: The applicant is seeking a variance to reduce the required interior yard setback from 5 ft. to 1 ft. to allow for a hot tub. The front yard setbacks imposed on the property provides a limited portion of the property that allows for a construction. Strict adherence to the regulations would not allow for the proposed hot tub, which is a reasonable accessory use to a single-family dwelling.

Fence height: The applicant is seeking a variance to increase the maximum height of a fence in the front yard from 3 ft. to 6 ft. and a variance to increase the maximum height of a fence from 4 ft. to 6 ft. in the interior side yard where the adjacent house is closer than 5 ft. to the property line. The applicant has stated that a taller fence is necessary to provide privacy for the hot tub on their property. Strict adherence to the regulations would not allow for the proposed 6 ft. high fence. Staff believes that based on the submitted information a 3 ft. high solid fence surrounding a hot tub is not a reasonable use of the property and would not adequately screen the hot tub.

2. **The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

Front yard setback: The circumstances upon which the setback variance is requested are unique to the parcel of land due to the location of the existing dwellings. As previously mentioned, the subject property is a reverse corner lot; therefore, a front yard setback is required along both Aldrich Avenue South and 40th Street West. This is a circumstance that is unique to this parcel and not created by the applicant. The alternative to the variance would cause an undue hardship to the property owner, by not allowing the proposed rear addition or hot tub. The location of the existing structures and the configuration of the lots are not circumstances created by the applicant.

Side yard setback: The circumstances upon which the setback variance is requested are unique to the parcel of land due to the location of the existing dwelling and configuration of the lot. Because the property is a reverse corner lot, there is no rear yard to locate accessory structures. If this was a standard lot, the rear lot line could be reduced to 1 ft.; however, this property has no rear lot line. This is a circumstance that is unique to this parcel and not created by the applicant. The alternative to the variance would cause an undue hardship to the property owner.

Fence height: The circumstances upon which the setback variance is requested are unique to the parcel of property. Staff believes that based on the submitted information, a 3 ft. or 4ft. high solid fence surrounding a hot tub is not a reasonable use of the property and would not adequately screen the property.

3. **The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

Front yard setback: Staff believes the rear addition and hot tub will not substantially alter the essential character of the surrounding neighborhood. The proposed addition will maintain 12 ft. to the side yard setback from the adjacent property to the west, the same as the existing dwelling. Staff believes that the rear addition and hot tub will not be injurious to the use or enjoyment of other property in the vicinity because it is located to the rear of the existing dwelling and the fact there is an existing porch in this current location. Staff believes both the addition and the accessory hot tub meet the intent of the ordinance.

Side yard setback: Staff believes the hot tub will not substantially alter the essential character of the surrounding neighborhood. The proposed addition will be screened from the adjacent dwelling. Staff believes that the hot tub will not be injurious to the use or enjoyment of other property in the vicinity because it is located to the rear of the existing dwelling will be screened from the adjacent dwelling.

Fence height: Granting the variance is in keeping with the spirit and intent of the ordinance and will not alter the essential character of the area or be injurious to the use or enjoyment of

other property in the vicinity. A fence of this nature would not create a 'fortress' like environment adjacent to a neighboring property, as it will be screening a hot tub. The fence will likely not be injurious to the adjacent property to the south of the subject property. Granting the variance will unlikely be precedent setting in the neighborhood.

4. **The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

Front yard setback: Granting the front yard setback variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed addition to the existing dwelling be detrimental to the public welfare or endanger the public safety.

Side yard setback: Granting the side yard setback variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed hot tub be detrimental to the public welfare or endanger the public safety.

Fence height: Granting the fence height variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed fence be detrimental to the public welfare or public safety.

Recommendation of the Department of Community Planning and Economic Development - Planning Division:

The Department of Community Planning and Economic Development – Planning Division recommends that the Board of Adjustment adopt the findings above and **approve** the variance to reduce the required front yard setback along Aldrich Avenue South from the setback established by the adjacent residential structure from 28 ft. to 14 ft. to allow for the construction of a two-story addition to the rear of an existing single-family dwelling and **approve** the variance to reduce the required front yard setback along Aldrich Avenue South from the setback established by the adjacent residential structure from 28 ft. to 14 ft. to allow for the construction of a two-story addition to the rear of an existing single-family dwelling, **approve** the variance to reduce the required front yard setback along Aldrich Avenue South from the setback established by the adjacent residential structure from 28 ft. to 20 ft. to allow for a hot tub, **approve** the variance to reduce the required interior yard setback from 5 ft. to 1 ft. to allow for a hot tub, **approve** the variance to increase the maximum height of a fence in the front yard from 3 ft. to 6 ft. to allow for the construction of a solid fence, and **approve** the variance to increase the maximum height of a fence from 4 ft. to 6 ft. in the interior side yard where the adjacent house is closer than 5 ft. to the property line subject to the following conditions:

1. Review and approval of final site and elevation plans by the Planning Department.